

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MATTHEW G. SILVA,

Plaintiff,

v.

C. J. MERRITT, *et al.*,

Defendants.

Case No. C07-5482 BHS/KLS

ORDER RE: SERVICE OF  
COMPLAINT

This civil rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. On December 7, 2007, Plaintiff filed a Complaint and paid the filing fee of \$350.00 (Receipt # T-3068). (Dkt. # 9). As Plaintiff is not proceeding *informa pauperis* in this matter, it is his obligation to serve copies of the Summons and Complaint upon the named Defendants.

Plaintiff is directed to Rule 4 of the Federal Rules of Civil Procedure, which sets forth the rules and procedure for service of the Summons and Complaint.

Pursuant to Rule 4(m), Plaintiff must serve copies of the Summons and Complaint upon each named Defendant within 120 days after the filing of the Complaint. Unless the Plaintiff can show good cause for his failure to serve, the Court shall dismiss the action without prejudice as to each defendant not served or shall extend the time for service. Fed.R.Civ.P. 4(m).

1        Filing and Service by Parties, Generally. All original documents and papers submitted for  
2 consideration by the Court in this case, are to be filed with the Clerk of this Court. The originals of  
3 all such papers shall indicate in the upper right-hand corner the name of the Magistrate Judge to  
4 whom the copies are to be delivered. The papers shall be accompanied by proof that such  
5 documents have been served upon counsel for the opposing party (or upon any party acting *pro se*).  
6 The proof shall show the day and manner of service and may be written acknowledgment of service,  
7 by certificate of a member of the bar of this court, or by affidavit of the person who served the  
8 papers.

9        Motions. Any request for Court action shall be set forth in a motion, properly filed and  
10 served. The motion shall include in its caption (immediately below the title of the motion) a  
11 designation of the Friday upon which the motion is to be noted upon the court's calendar. That date  
12 shall be the third Friday following filing of the motion (fourth Friday for Motions for Summary  
13 Judgment). All briefs and affidavits in opposition to any motion shall be filed and served not later  
14 than 4:30 p.m. on the Monday immediately preceding the Friday appointed for consideration of the  
15 motion. If a party fails to file and serve timely opposition to a motion, the court may deem any  
16 opposition to be without merit. The party making the motion may file, not later than 4:30 p.m. on  
17 the Friday designated for consideration of the motion, a response to the opposing party's briefs and  
18 affidavits.

19        Motions for Summary Judgment. If one of the parties files a motion for summary judgment  
20 pursuant to Federal Rules of Civil Procedure 56, the opposing party should acquaint him/herself  
21 with Rule 56. Rule 56 requires a nonmoving party to submit affidavits or other evidence in  
22 opposition to a motion for summary judgment if the moving party has shown the absence of issues  
23 of material fact and an entitlement to judgment as a matter of law. A nonmoving party may not rest  
24 upon the mere allegations or denials of prior pleadings. Rather, successful opposition to a motion  
25 for summary judgment requires the nonmoving party to set forth, through affidavits or other  
26 evidence, specific facts showing a genuine issue for trial. Failure by the nonmoving party to oppose  
27 a summary judgment motion or to present counter evidence could result in the court accepting the

1 moving party's evidence as the truth, and entering final judgment in favor of the moving party  
2 without a full trial. *Rand v. Rowland*, 113 F.3d 1520 (9<sup>th</sup> Cir. 1997).

3 Direct Communications with District Judge or Magistrate Judge. No direct communication  
4 is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant  
5 information and papers are to be directed to the Clerk.

6 Clerk's Action. The Clerk is directed to send a copy of this Order and of the General Order  
7 issued by the Magistrate Judges to Plaintiff. The Clerk is also directed to send Plaintiff a summons  
8 form for each named Defendant.

9 DATED this 20th day of December, 2007.

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13 Karen L. Strombom  
14 United States Magistrate Judge  
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